

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY  
BOARD OF ADJUSTMENT MINUTES  
AUGUST 25, 2009**

**Roll Call:** Durfee, Eller, Mangiacotti, Post, Truman, Vitalos – 6 Present

**Absent:** None

**Vacancy:** 3 Vacancies

**Also Present:** Stuart Ours, Esq., Board Attorney  
Ann Kilduff, Clerk

Chairman Eller led the members of the Board in the flag salute and read the Open Public Meetings Act into the record.

**MINUTES:**

**Regular Meeting – July 28, 2009**

Chairman Eller entertained additions or corrections to the minutes. Hearing none, it was moved by Truman, seconded by Mangiacotti, that the minutes of the regular meeting held July 28, 2009 be approved as submitted.

Roll Call: Durfee, Mangiacotti, Post, Truman, Vitalos and Eller  
Ayes: 6, Nays: 0, Abstained: 0

Motion carried.

**RESOLUTIONS:**

**Case #2009:10 – John Helgesen – 102 E. Washington Avenue**

It was moved by Truman, seconded by Post, that the resolution be adopted as approved at the July meeting denying the conversion of a commercial unit into a residential unit.

Roll Call: Post, Truman and Eller –  
Ayes: 3, Nays: 0, Abstained: 3 (Durfee, Mangiacotti, Vitalos)

Motion carried.

**APPLICATIONS:**

**Case #2009:7 – Muhsin Muheisen – 30 Route 31 South; Block 80 Lot 13 B1 Zone**

This application is filed for the purpose of operating an outdoor and indoor flea market. In the Zoning Officer's Refusal of Permit, this request is denied for non-compliance with the provisions of Section(s) 94-80A of the Municipal Zoning Ordinance for the following reason: Outdoor and indoor flea markets are not permitted in this zone.

Mr. Ours found all notices to be in order. The Board has jurisdiction to hear this application. The oath was administered to Muhsin Muheisen for his testimony. Mr. Muheisen stated he is a tenant of the property at 30 Route 31 South. He currently runs a farm market in the front portion of the building and proposes an indoor and outdoor flea market in conjunction with the market. Hours of operation would be 7:00 am – 9:00 pm on Fridays, 7:00 am - 8:00 pm on Saturdays and 7:00 am - 7:00 pm on Sundays. The flea market would be in the back section of the building. There are seven bays which would be open to allow for flow of people through the

Board of Adjustment Minutes  
August 25, 2009

building. He anticipates 25-30 tables in 10x10 booths. The proposed fee for each booth is \$30.00. Mr. Muheisen stated there are five bathrooms in the building and one handicap bathroom is being installed. All are available to the public. Food would be cooked and sold outside of the building.

Chairman Eller noted reasons why it should be allowed were not given in the application. Mr. Muheisen stated the building was vacant and he is looking to bring business to the town and hopefully bring business to the other businesses. He is currently leasing the entire building but only using the front portion. Chairman Eller spoke about the curb cuts and parking spaces with Mr. Muheisen in regards to the flow of traffic. Mr. Muheisen stated the plans submitted were drawn up based on the park 'n ride on the property which he would still like to pursue. The flea market plans would be different. Mr. Vitalos questioned if the he park 'n ride could co-exist with the flea market. Mr. Ours stated he needs to see better parking lot plans. Chairman Eller stated he would also like to see plans for the back parking lot, specifically how much table space will be taken up to know how many parking spaces will be left for the public. He is also concerned with the entrances and exits on Route 31 and feels it is difficult getting in and out of traffic. Mr. Muheisen stated he would like to continue using the exit onto Youmans Avenue. Chairman Eller is concerned with the width of Youmans Avenue and with people parking on both sides of the street. There is limited access.

Mr. Post asked if there are any vendors ready to participate. Mr. Muheisen said he as approximately 60 interested vendors. He would have them sign a contract for inside space, but not outside. Outside space would be seasonal, opening in March and remaining open until Christmas. Mr. Vitalos was concerned about snow removal. Chairman Eller questioned garbage removal. Mr. Muheisen stated he will have bins and private collection. Each vendor would be responsible for their own garbage and recycling. The will have employees to take care of the property. Mr. Ours stated he would like to see the placement of the dumpsters. He wants to see the concept of the project, but he is not requiring a site plan.

Mr. Post stated he would like to see a 6' fence along the stream on the side to back of the building to prevent children and/or cars from falling in. He feels it is a necessary safety precaution. Chairman Eller feels there may be a conflict with having both the park 'n ride and flea market. He would like to see a plan of how they could both co-exist. Mr. Post questioned the easement in the back of the property. Mr. Ours stated it is a deeded right of way. Mr. Muheisen stated it is owned by Mr. Rossi and used by the neighbors. Mr. Post noted the Jewish Center used the parking lot on the weekends. Mr. Muheisen stated he has no problem with them using the space now, but they would have to find other parking if the flea market is granted.

Chairman Eller entertained comments from the audience.

Deborah Jorgensen, 95 Youmans Avenue, was sworn in for her testimony. She feels the flea market would cause congestion, parking issues, noise and vandalism. She feels it would not be a benefit to the town and would have a negative impact on property values. She noted both Chester and Dover have done away with their flea markets.

Harold Warne, 107 Youmans Avenue, was sworn in for his testimony. Mr. Warne stated he lives next to the right of way and has had several problems with garbage in his yard. The Jewish Center causes traffic congestion on weekends and he feels the flea market would make this worse. Vehicles would need to be there prior to opening time to set up. The car show and tractor show have caused problems. He feels the right of way should be closed and everyone should enter and exit onto Route 31. Mr. Ours noted it is not in the board's jurisdiction to close an entrance; however they can propose it not be used. Mr. Warne stated the Jewish Center has no parking space. They use Youmans Avenue and Muheisen's parking lot.

Board of Adjustment Minutes  
August 25, 2009

Bruce Jorgensen, 95 Youmans Avenue, was sworn in for his testimony. He stated when being notified of the flea market, he was told it was for the auto show and not given a letter. He feels he is being misled. He received a letter last week but it was not dated properly to reflect the August meeting. He is concerned with parking for customers if vendors will be taking up the spaces. Youmans Avenue has children and pets and he is concerned with the heavy traffic.

Mr. Ours stated it appears some members of the public was not notified of the meeting properly, and therefore the board does not have jurisdiction to hear this case. Chairman Eller noted the case needs to be tabled until next month anyway to allow the applicant to provide the board with the information it requires. Mr. Ours told Mr. Muheisen the newspaper and residents need to be re-noticed.

This application has been tabled until the September 22, 2009 meeting.

**COMMUNICATIONS:**

A memo from Borough Manager Phelan regarding the Non-Residential Development Fee Act was received and discussed.

**REPORTS:**

There were no reports at this meeting.

**REMARKS:**

Frank Mangiacotti stated he spoke to the Borough Manager regarding the Board's need for additional members. He was told no one has volunteered to date.

Hearing no further business to come before the Board, a motion was made by Post, seconded by Durfee, that the meeting be adjourned at 9:17 pm.

Ayes: 6, Nays: 0.  
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary